IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.565 of 2009

Commissioner of Income Tax -II
Tiruchirappalli.
.... Appellant/Appellant

Vs.

Shri.T.s.R.Balaji
Gokul Gardens,
Kumbakonam
.... Respondent/ Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 16.09.2004 made in ITA No.1261/Mds/98 for the assessment year 1994-95 against the order dated 15.01.1998 in ITA NO.16/96-97-ACIT-INV I/TR4 by the Commisioner of Income Tax (Appeals)-VI,Madras against the Assessment order dat 14.03.96 in cis no.8701-B/INV.I/94-95 by the Assistant Commisioner of Income Tax ,Investigation -I,Trichy.

For Appellant : Mrs.Premalatha
for Mr.M.Swaminathan
Sr.Standing Counsel

For Respondent : Mr.S.Sridhar

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras ''C' Bench, Chennai, dated 16.09.2004 made in ITA No.1261/Mds/98 for the assessment year 1994-95 by raising the following substantial questions of law:

"(i) Whether on the facts and in the circumstances of the case the Tribunal was right in dismissing the appeal filed by the Revenue without going into the merits of the case on the ground that the tax effect was less than the monetary limit of Rs.1,00,000/- prescribed by the Central Board of Direct Taxes in the Instruction No.1979 dated 27.03.2000 for filing appeals before the Income Tax Appellate Tribunal without considering the judicial pronouncements of the various High Courts including that of the jurisdictional High Court wherein it has been held that the Board' instructions regarding monetary limits do not operate as an embargo on considering the appeals on merits?

(ii) Without prejudice to the above question, whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in dismissing the appeal filed by the Revenue without going into the merits of the case on the ground that the tax effect was less than the monetary limit of Rs.1,00,000/- prescribed by the Central Board of Direct Taxes in the Instruction No.1979 dated 27.03.2000 for filing appeals before the Income Tax Appellate Tribunal without considering the fact the appeal was filed much before the said Instructino came into force?"

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the appeal filed by the Revenue is dismissed as not pressed, keeping open the substantial questions of law for determination in an appropriate case.

Sd/-
Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

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To
The Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai

2. The Commisioner of Income Tax (Appeals)-VI,Madras

3.The Assistant Commisioner of Income Tax ,Investigation -I,Trichy.

4.The Commisioner of Income Tax-II ,Trichirapalli.

+1cc to Mrs.Premalatha , Advocate SR.No. 84933

TCA No.565 of 2009

A.SK(23/01/2019) 12.2018.